

APPROVED: Meeting No. 09-90

ATTEST: *Sharon A. Gran*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 07-90

February 12, 1990

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on February 12, 1990, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Viola D. Hovsepien

Councilmember James T. Marrinan

Councilmember David Robbins

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and City Attorney Paul Glasgow.

Re: City Manager's Report

1. Regarding the Scott Drive bridge, repairs will be made February 21 through February 23, and traffic will be prohibited on the bridge during this period of time. Staff has checked with Frost Jr. High and these dates do not conflict with any special events. Phase II of the project, a complete reconstruction, will begin after June 15. During the reconstruction and expansion from one lane to two, the bridge will remain open to traffic with minor delays.

In response to Councilmember Marrinan, the City Manager advised that appropriate notification and signage would be provided.

2. As an interim solution to some of the space problems at City Hall, the Youth Services Division of the Department of Community Services has been relocated to Bouic House. A preview of this new space will be provided for the Mayor and Council on

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Tuesday, February 20, prior to the public hearing, between 6:45 p.m. and 7:30 p.m. The press is invited as well. A more formal dedication will take place in April.

3. On Monday, February 26, in conjunction with promoting the Census efforts, the City will showcase multi-cultural banners made by the International Baccalaureate students at Richard Montgomery. The banners will hang in the City Hall lobby through Census Day, April 1.

Re: Appointments

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, Dorothy Perreca was appointed to a three-year term on the Animal Control Board.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Alice Kelly was appointed to a one-year term as Chairperson of the Historic District Commission.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Kenneth Falci was appointed to a three-year term on the Science and Technology Commission.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Mercia Decker was appointed to a three-year term on the Senior Citizens Commission.

Re: Approval of Minutes

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, the minutes of Meeting No. 03-90 (January 22, 1990) were approved, as written.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, the minutes of Meeting No. 04-90 (January 23, 1990) were approved, as written.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, the minutes of Meeting No. 05-90 (January 29, 1990) were approved, as written.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the minutes of Meeting No. 06-90 (February 6, 1990) were approved, as written.

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Re: FYI

Regarding the Giant receipts which can be used by the schools for computer equipment, Councilmember Coyle questioned whether or not the recipient of the City's receipts should be determined based upon need rather than through a lottery. Following discussion, it was agreed that staff would handle in the appropriate manner.

Councilmember Coyle also noted he was pleased to see that the Licenses and Inspection staff have been provided an opportunity to receive training.

With respect to child fingerprinting at Christ Episcopal School, Councilmember Coyle commended the Police Department for volunteering their time for this endeavor and expressed hope that this service could be expanded to other schools in the City. The City Manager responded that staff will review the possibility of providing this opportunity at other school sites.

Re: Citizens' Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. James Moone, 1204 Potomac Valley Road, noted the release of Nelson Mandela and commended the Mayor and Council for its support several years ago in passing a resolution subscribing to the Sullivan principles. Mayor Duncan commented that the new pension carrier, the Principal Group, also subscribes to the Sullivan principles. Councilmember Coyle suggested that the City renew its commitment and send another resolution to appropriate organizations representing interests in South Africa.

Dr. Moone stated that members of the Association of Concerned Citizens of the Rockville Area (ACCRA) are anxiously awaiting the final submission of the City's Affirmative Action Plan.

Dr. Moone advised the Mayor and Council that a subcommittee of Public Works employees has expressed concern with issues such as sleeping arrangements during snow

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removal and diesel fumes in the Public Works' yard. The City Manager responded that this information is not consistent with the City's information but that he would fully explore these issues.

2. Roald Schrack, 609 McIntyre Road, referenced Mayor Duncan's letter which appeared in The Washington Post, noting that the letter, along with Marriott Corporation's proposal to move to Rockville, is a clear indication that Rockville is the city of choice. He commended the Mayor and Council and staff.

Mr. Schrack referenced the changes to the Election Ordinance adopted by the Mayor and Council last year, noting the intent not to subject political organizations to the requirements for political committees under the law. Mr. Schrack expressed concern that the Board of Supervisors of Elections recently determined that the Alliance of Rockville Citizens, a city-wide civic group, is a political committee.

Mayor Duncan responded that the Mayor and Council will address these concerns at the worksession to be held with the Board of Supervisors of Elections following their public forum in March. He commented that it appears the Board is interpreting the law different than the intent of the Mayor and Council at the time of its adoption.

3. Stephen Fisher, on behalf of the Alliance of Rockville Citizens, inquired as to the status of his request of January 22, that written rules of procedure be developed by the City Attorney for the handling of complaints by the Board of Supervisors of Elections. Mayor Duncan responded that procedures would be discussed with the Board in the worksession to be held in March.

4. Tom Curtis, 2519 Lindley Terrace, advised the Mayor and Council that he had been informed by a member of Jacqueline Rogers' staff at the State Department of Housing and Community Development, that there are two houses within the I-270 right-of-way under the jurisdiction of the State Highway Administration which are available for transporting to an available site in Rockville or Gaithersburg. He indicated that more

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information would be provided to the City Manager regarding this matter.

With respect to Zoning Text Amendment T-101-89, Mr. Curtis, a member of the City's Child Care Task Force, indicated that in testifying before the Planning Commission, he felt that the Task Force's report was partially misunderstood. He expressed disagreement with several of the Planning Commission's recommendations regarding this text amendment, in particular, the parking requirements and the requirements for special exceptions in certain zones for child care centers of 7 to 12 children.

Mayor Duncan commented that he had received a number of complaints regarding parking for child care facilities.

5. Alice Von Saunder, 13 Clemson Court, addressed the new location for Rockville Arts Place, and voiced displeasure with the accompanying displacement of O'Hara Enterprises. She mentioned that a number of individuals have expressed concern with a relocation of O'Hara's and indicated it was hoped that there would be some other way to accommodate Rockville Arts Place.

Mayor Duncan stated that a hearing would be held regarding this matter on March 19, and that assurances have been received from Mr. Kimmel that another location could be found for O'Hara's. Mr. Romer emphasized that the City has no relationship with O'Hara's and that it is not displacing them. Rather, it is a matter between O'Hara's and the property owner who has indicated that the alternate space to be provided at an attractive price met the satisfaction of the owner of O'Hara's.

Mayor Duncan noted that additional information would be provided to Mrs. Von Saunder and that Mr. Kimmel has been most supportive in ensuring that businesses which want to remain downtown have that opportunity.

Re: Annual Report of the  
Board of Appeals

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David Melnick, chair of the Board of Appeals during 1989, stated that they had a successful year of hearing cases for special exceptions and variances. The Board met 12 times and heard a total of 45 cases, including nine special exceptions and 36 variances. He expressed appreciation for the staff support of Lisa Rother and Alice Cronin.

Patrick Woodward noted that the operation of the Board of Appeals is governed by Article 66B of the Annotated Code of Maryland and the Board's written Rules of Procedures. In all cases that come before the Board, the Board follows the Code and its rules so that all interested persons are given notice and an opportunity to be heard and that the cases are fairly decided based upon the evidence presented. Very few of the Board's decisions have been appealed to the Circuit Court and, of those appealed, not one has ever been reversed by the Court.

James Moone addressed the issue of group homes, indicating that the Board has recommended that the Mayor and Council adopt a text amendment to permit group homes in residential zones by special exception, with appropriate development and use standards to ensure compatibility with the surrounding neighborhood. Discussion ensued as to how group homes are currently operating, and staff responded that they operate under a public umbrella and come under the eleemosynary category.

Regarding non-conforming signs, Karen Lechter expressed hope that businesses, religious institutions and others would be notified that compliance must be achieved by the end of 1991. The City Manager responded that a report of those businesses to be notified would be forthcoming.

Alan Sternstein, the newest member of the Board, advised the Mayor and Council that he had recently attended his first meeting and is pleased to be a member of the Board.

The Mayor and Council commended the Board members for their excellent service,

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recognizing that it has been a difficult year.

Re: Consent Agenda

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the following Consent Agenda items were approved:

- A. Adoption of Resolution in support of Program Open Space.

Resolution No. 04-90

The City of Rockville utilizes Program Open Space funds for its park development and acquisition program. Resolution No. 04-90, the full text of which can be found in Resolution Book No. 9 of the Mayor and Council, was adopted to support legislation to remove the cap placed on State Open Space funding and increase the current fiscal year allocation for the State from \$39 million to \$77 million.

- B. Award of contract to Audio Visual Imagineering, Inc. (AVI) for Hometown Holidays 1990 laser show.

This award is in the amount of \$25,750, and funding is allocated with the Special Events Hometown Holidays budget.

- C. Award of Bid No. 38-90 for the purchase of one John Deere Articulated Wheel Loader from Mid-Atlantic Equipment, Mannassas, Virginia, for the low bid price of \$57,245.

This machine will replace a 1975 model which will be auctioned off.

- D. Motion to authorize the City to enter into a sole source contract with David M. Griffith and Associates in the amount of \$30,500, for the purpose of conducting a revenue and cost allocation study.

The purpose of the study is to assess and evaluate the City's fee structure, grant participation and

allocation of costs to various funds. On the basis of this evaluation, appropriate recommendations for changes will be generated which will enable the City to maximize its revenues while still maintaining equity in terms of determining who pays for which services.

- E. Motion to authorize two change orders to Hughes Group Architects, Inc., Sterling, Virginia, for changes in the design and construction monitoring of Phase II's outdoor recreation pool at the Rockville Municipal Swim Center, in the amount of \$27,171 from funds available in the project budget.

These change orders provide for additional design and consultation services necessitated by a change in the scope of the project from a relining of the outdoor pool into a two pool project.

- F. Preliminary Review - Text Amendment Application T-104-89, Rockville Planning Commission, Applicant.

This is a technical update to the Zoning Ordinance with amendments to various sections dealing with definitions, uses, development standards and parking requirements.

- G. Re-introduction of Resolution to enlarge the corporate boundaries of the City of Rockville to include 37.57465 acres of land, more or less, Annexation Petition No. X-108-89, Ward Corporation, applicant.

This resolution is being reintroduced to include an amendment filed by the applicant which includes an additional 1.1272 acres of land, more or less, in the area requested to be annexed.

- H. Adoption of Resolution to amend Resolution No. 36-90, providing for public hearing on March 19, 1990,



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in connection with Annexation  
Petition No. X-108-89, Ward  
Corporation, applicant.

Resolution No. 05-90

Subsequent to the adoption of Resolution No. 36-90, the applicant amended the Petition for Annexation to include an additional 1.1272 acres of land, more or less, of James W. Wilcoxon and Theresa L. Wilcoxon. Resolution No. 05-90, the full text of which can be found in Resolution Book No. 9 of the Mayor and Council, was adopted to include this additional area of 1.272 acres, more or less, in the resolution setting the public hearing date of March 19, 1990.

Re: Introduction of Ordinance to adopt a new Code for the City of Rockville codifying the ordinances of the City in effect as of November 14, 1988 (exclusive of zoning and planning provisions), reorganizing and modifying such ordinances by making additions, deletions and changes needed to create a unified, uniform and updated code; to provide for the repeal of certain ordinances not included in the new code; and to provide for penalties for violations.

Sondra Block, Assistant City Attorney, informed the Mayor and Council that the looseleaf format will facilitate supplementation and that separate bound volumes of the Zoning Ordinance and Charter will be available. The Code, as it is presently bound, includes all laws in effect as of November 14, 1988, with the exception of the zoning and planning regulations which will be adopted separately by way of a zoning text amendment. In adopting the Code, the Mayor and Council will adopt all laws and ordinances in effect as of the date of adoption. The first supplement should be available in the very near future. The new Code is an internally consistent document

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containing updated penalty provisions.

In response to Councilmember Marrinan's question regarding how to bring the City's misdemeanor penalty provisions into conformity with State law, the Assistant City Attorney recommended an amendment to the Charter. The Mayor and Council instructed staff to prepare such a Charter amendment, and the Ordinance to adopt a new Code for the City of Rockville was formally introduced.

Re: Update on Affirmative Action  
Plan

The City Manager provided the Mayor and Council with an update on the Affirmative Action Plan. He indicated that the implementation guidelines call for the development of a data base in order to provide required residency information, that is, the actual place of residence of all employees who apply for employment with the City of Rockville. He reported that the data base has been developed and is being expanded. Transmitted today is the nine-month report indicating the data base as of January 31, 1990. The decision before the Mayor and Council is whether to use this nine-month data in the development of a plan or other data to be developed over a longer period of time.

In response to Councilmember Robbins, the City Manager indicated that he is satisfied that there would be little difference between the nine-month data and twelve-month data; that a comparison of the six-month and nine-month data illustrated a narrowing of the gap; that the relevant labor market is dominated by Montgomery County residents who comprise 72.5% of the available work force.

Staff was instructed to proceed to use the nine-month data as the basis for a plan to be presented to the Mayor and Council in the near future.

Re: Discussion and Instructions  
to Staff - retrofitting of  
fire suppression systems.

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Linda MacDermid, Superintendent of Licenses and Inspection, provided the Mayor and Council with some background information regarding the current State and County code requirements. Using the County's criteria, there are only two high-rise buildings in Rockville which would require retrofitting, 51 Monroe Street and the GE building on North Washington Street.

Councilmember Coyle commended staff on the report and noted that their focus on retrofit should first be in residential buildings. He cited statistics, comparing deaths occurring in non-sprinklered buildings versus sprinklered buildings. He feels that there is no reason to conform to the standard of over 75 feet in height for office buildings and suggested that the City form a task force comprised of members of the business community to develop a systematic plan for retrofitting buildings. The first emphasis, however, should be on residential units. Mr. Romer indicated that staff would make recommendations for the task force membership.

Re: Discussion and Instructions  
to Staff - Text Amendment  
Application T-94-89, Hardage  
Enterprises, Applicant.

This text amendment would amend the definitions, use regulations and parking requirements of the Zoning Ordinance related to all types of restaurants. Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, staff was instructed to prepare an ordinance to adopt Text Amendment T-94-89, as recommended by the Planning Commission and Planning Staff, with the deletion of reference to full-service restaurants in the requirement for a minimum of fifty parking spaces per establishment.

Re: Discussion and Instructions  
to Staff - Text Amendment  
Application T-97-89, Joseph  
A. Lynott, attorney for C. M.  
Whalen, applicant.

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Approval of this text amendment would allow "ownership lots" and "ownership plats" to be used in TCM-1 and TCM-2 Zones. Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, staff was instructed to prepare an ordinance to adopt Text Amendment T-97-89 consistent with the recommendations of the Planning Commission.

Re: Discussion and Instructions  
to Staff - Text Amendment  
Application T-98-89, Joseph  
A. Lynott, attorney for 701  
Rockville Pike Limited  
Partnership, applicant.

This application requests amendment to the Zoning Ordinance Limitations on Heights to allow roof top structures and equipment to exceed the maximum building height by 19 feet and provide a six-foot limitation on parapet walls. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, staff was instructed to prepare an ordinance to adopt Text Amendment T-98-89, amendments to Zoning Ordinance Limitations on Heights, with the five modifications proposed by the Planning Commission.

Re: Discussion and Instructions  
to Staff -Text Amendment  
Application T-101-89, Mayor  
and Council of Rockville,  
Applicant.

Mayor Duncan stated that he had received a letter from Eleanor Northway, Chairperson of the Rockville Child Care Task Force. She indicated that after polling a number of the task force members, they are in agreement with the recommendations of the Planning Commission.

Staff was asked to respond to questions raised during Citizens' Forum by Tom Curtis. Staff responded that while the Planning Commission's recommendations were slightly more conservative than what the Task Force has recommended, it was only to a moderate degree. There was considerable concern not to allow child care centers to operate in residential zones without going through the special exception process. A child care home is permitted in all residential situations. Regarding parking, the

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requirement of one space for every four children is considered a minimal requirement since single family residences are required to have at least two spaces under the current Code, and such spaces would satisfy the requirement. Discussion followed regarding the proximity standard and the fact that the lot size in some zones, such as R-40 or R-60, might restrict a commercial child care operation.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, staff was instructed to prepare an ordinance to adopt Text Amendment Application T-101-89, amendments to various sections of the Zoning Ordinance to allow additional opportunities for child care facilities in residential and non-residential zones, with a modification to add "child care center" as a permitted use in the RPC Zone.

Re: Discussion and Instructions  
to Staff - Application to  
Close and Abandon Public Way,  
SCA 59-89, Holladay-Tyler  
Corporation, Applicant.

In connection with the abandonment of the public right-of-way for Thompson Avenue between Chapman Avenue and the CSX/WMATA right-of-way, Councilmember Marrinan asked how the concerns of adjacent property owners were addressed. The City Attorney responded that the action would abandon the public easement only and that the property would revert to the adjoining property owner/owners.

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, staff was instructed to prepare an ordinance to abandon the subject right-of-way in accordance with the terms of the Planning Commission.

Re: Discussion and Instructions  
to Staff - Review of Montgomery  
County's Capital Improvements  
Program (CIP) for FY1991-1996  
to develop comments for  
submission to Montgomery County  
Council.

Councilmember Robbins requested staff to respond to the expansion of the Adult Addiction Programs at Broome; staff advised that if the program is be expanded,

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a special exception from the City would be required. The site is accessible to public transportation; however, concerns were expressed regarding increased traffic and demand for parking.

Regarding the Seven Locks Technical Center, the Mayor and Council expressed concern with any additional facilities being constructed on the site and the impact on adjacent neighborhoods. They requested that the County forward a copy of the Master Plan for the Technical Center to the City, and it was noted that any major additions or site modifications at this site would require Use Permit approval by the City.

With respect to Ritchie Parkway, Councilmember Coyle indicated that the City's position regarding a connection to Great Seneca Highway should be made clear. Staff noted that regarding the Shady Grove Master Plan, technical staff is reviewing this issue in an attempt to divert some of the Great Seneca Highway traffic from Ritchie Parkway. Mayor Duncan requested that something be added to the comments to clarify this. Councilmember Marrinan asked if it is understood that West Ritchie Parkway is considered as a non-commercial road, and the City Manager responded that he will provide additional information regarding this matter.

Regarding the Richard Montgomery High School renovation, Councilmember Coyle asked that comments be added for this item, noting the City's appreciation to the County for its continued commitment to Richard Montgomery and other schools in the City.

Councilmember Marrinan commented on the Key West Avenue from Gude Drive to I-270 project, asking if Route 28 is to be rerouted to West Gude Drive. The City Manager will provide further information.

Staff was directed to proceed with a letter of recommendation to the Montgomery County Council with the changes outlined above.

Re: Correspondence

With respect to the thank-you letter received from Richard Montgomery, Councilmember Marrinan asked if all City schools should be provided with a City flag.

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Mayor Duncan responded that it is his understanding that any City school which requests a flag receives one. Staff was requested to verify this policy.

Re: New Business

Councilmember Coyle addressed the issues raised by Alice Von Saunder, commenting that the City needs to take the issue seriously and that a statement has to be made to businesses and citizens that the City will commit to ensuring that the businesses which want to stay downtown have that opportunity. The City Manager responded that is part of the economic plan.

Mayor Duncan stated that he would like to be the Mayor and Council liaison on the Sister City Corporation, and all agreed.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 10:00 p.m., to convene again in Public Hearing at 7:30 p.m. on February 20, 1990, or at the call of the Mayor.